

RETROSPECTIVE EFFECT TO THE AMENDMENT TO 1205 THE VILLAGE PANCHAYAT ACT

ജാവി തിരുമനസ്സിലെ പ്രൊക്ലമേഷനനുസരിച്ച് ഒരു കുടുംബത്തിനു കഷ്ടിച്ചു കഴിച്ചുകൂട്ടുവാൻ ഫറൂഖ് റവായെങ്കിലും കൊടുത്തു അവരെ ഒരു നേരമെങ്കിലും ആഹരിക്കുന്നവരാക്കിത്തീർക്കണമെന്നാണ് ഞാൻ പറയുന്നത്. ഫറൂഖ് റവായിൽ കുറഞ്ഞ ഒരു ശമ്പളം കൊടുക്കുന്നത് ഒരു തരത്തിലും അഭിമാനകരമല്ലെന്നു തീരുമാനിച്ചിട്ടുണ്ട് ആ പൊന്നതിരുമേനി ഇങ്ങിനെയൊരു കൽപന പുറപ്പെടുവിച്ചിട്ടുള്ളതു്. ആ പൊന്നതിരുമേനിയെ ഓർത്തിട്ടെങ്കിലും ഗവണ്മെൻറു ഈ സാധുക്കളുടെ കാര്യത്തിൽ ഓർമപെച്ച് ബ്രാഞ്ച് അഞ്ചൽ മാസ്റ്റർമാരുടെ ശമ്പളം ഫറൂഖ് റവായെങ്കിലും കൊടുക്കേണ്ടതാണെന്നുപേക്ഷിച്ചുകൊണ്ടും ഈ കൌൺസിലിന്റെ അനുമതിയോടുകൂടിയും ഞാൻ ഈ പ്രമേയത്തെ പിൻവലിക്കുന്നു.

Resolution was, by leave, withdrawn.

15. Retrospective effect to the Amendment to the Village Panchayat Act.

Mr. E. Ikkanda Warriar (Urakam).—*This Council recommends to the Government to issue a Proclamation giving retrospective effect to the amendment of section 27 of the Village Panchayat Act by the Amending Act XLIV of 1112."*

Sir, the maximum limit of time allowed by the Civil Procedure Code for the execution of a decree is twelve years from the date of the decree. The Village Panchayat Courts and the persons who have obtained the decree were under the impression that the above period is available for the execution of their decrees.

Mr. Thomas Manjuran (Government Advocate and Law Officer).—May I, without interruption, say one thing? The Hon'ble Member's Bill to the same effect is coming up to-morrow. I have tabled a small amendment to it only in sympathy with the Bill itself. I think that the Bill may be got passed to-morrow.

Mr. E. Ikkanda Warriar (Urakam).—I am not quite certain if the Bill will come up to-morrow.

Mr. Thomas Manjuran (Government Advocate and Law Officer).—The Hon'ble Member can move the President to give precedence to that Bill. We wish sympathetically to co-operate with the Hon'ble Member in regard to that measure. Then what is the use of passing this resolution? If the Hon'ble Member wants the Government to do anything in this matter, I say here is a Bill ready to be passed to-morrow and finally passed day after.

Mr. Chairman (*Mr. K. Ayyappan*).—That Bill will have to be passed through many stages. The motion is only for introduction.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Nothing can be done in the matter without an amendment to the statute. Here we have got a Bill coming up for to-morrow. That the Government is in full sympathy with this Bill will be seen from the amendment that I have tabled. To my mind the proper course is to request the President to advance that Bill rather than pass this resolution. That will be a much better and reasonable course.

Mr. E. Ikkanda Warriar (*Urakam*).—I am not very anxious that this question should be tackled in the form of a resolution. I am very anxious to bring to the notice of the Government that this is an important matter. I thought that the Government themselves would take action on their own accord by bringing this amendment Bill.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Do you want the Government to introduce a Bill here?

Mr. E. Ikkanda Warriar (*Urakam*).—The resolution is for asking the Government to issue a proclamation. The Government can do it with a stroke of their pen. I apprehended that my Bill would not be reached. So I made a special request to the President asking him to give precedence to my Bills over the non-official resolutions. That was refused by the President. So I think that I need not miss the opportunity of moving the resolution. I am almost certain that my Bill would not be reached because there are other controversial Bills before it.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I can say on behalf of the Government that there is a Bill ripe and ready which the Government consider with sympathy and can be taken up as the first piece of business to-morrow. But Government is not prepared to invoke the prerogative of His Highness in this matter.

Mr. E. Ikkanda Warriar (*Urakam*).—If I can get an assurance from the Chair that this will be taken up as the first item of business to-morrow then I do not want to move this resolution.

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Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—With regard to the subject-matter of the resolution Government is in full sympathy. But the Hon'ble Member may move the President in the matter.

Mr. E. Ikkanda Warriar (*Urakam*).—I do not wish to press this resolution provided I get the first opportunity to move my Bill to-morrow.

Dr. A. R. Menon (*Pallippuram*).—You give this assurance on behalf of the Government. Can you do that?

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—We are in full sympathy with the Bill and we will point out that there is a Bill on the subject. The Hon'ble Member may take such steps as are necessary to see that this Bill is got through as early as possible.

Mr. K. M. Ibrahim (*Cranganur*).—Who is to give permission for giving preference to Bills? It is the President and not the Government. Then how can the Government give an assurance?

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—It is a measure which the Government is in full sympathy and in full agreement with the non-official Members. Then nobody will take any objections.

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—There are other items of business standing in the name of other Members. They may raise objection.

Dr. A. R. Menon (*Pallippuram*).—Suppose he does not get permission to move the Bill to-morrow. Now he has got a chance to request the Government to issue a proclamation. That is the difference. Would you on behalf of the Government appeal to the President to give preference to this Bill just as you would also appeal so that this measure may be passed.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I won't make an appeal. Government will simply say that they are in full sympathy with the measure.

Dr. A. R. Menon (*Pallippuram*).—You must be sure of your ground on behalf of the Government. What is the use of saying that we will get the Bill passed to-morrow—to-morrow second reading and day after to-morrow third reading? You say we are in sympathy with the Bill. Who cares for your sym-

pathy? I wanted an assurance from the Government. The Hon'ble Member has been saying that the Bill will be got passed at 11. 15 on Friday.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).— I cannot give an assurance.

Dr. A. R. Menon (*Pallippuram*).— Then why did you say to-morrow we can have the second reading and the day after to-morrow get it finally passed.

Mr. E. Ikkanda Warriar (*Urakam*).—Sir, The proviso to section 27 of the Panchayat Act contained a provision that no application shall be entertained by a Panchayat Court after the expiration of three years from the time when the right to make the application first accrued. The exact scope of this proviso was not correctly understood until the decision of the Chief Court in Civil Reference No. 3/1112 wherein they held that the Panchayat Court has no jurisdiction to execute a decree passed three years before the date of the petition for execution. This interpretation of the law has caused untold hardship and loss to a large section of the public. This the legislature alone has power to relieve against. The proviso to section 27 has been deleted by the amending Act XLIV of 1112. But the amendment cannot have retrospective effect. Hence the following resolution:—

“ This Council recommends to the Government to issue a Proclamation giving retrospective effect to the amendment of section 27 of the Village Panchayath Act by the amending Act, XLIV of 1112.”

The resolution is only to request the Government to issue a Proclamation. Since the Government is in full sympathy with the resolution it can be accepted by them. If a formal motion for getting preference to my Bill is necessary I shall give it to-morrow. I do not think that the House need spend much time on this resolution. I pray that this resolution may be accepted by the Government.

Mr. A. V. Moothedan (*Chalakkudi*).—I second it.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—I have nothing practically to add to what I said already. While we fully sympathise with the mover of the resolution to have a law, Government must state that His Highness' prerogative will be resorted to only in extreme and

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absolutely necessary cases. In this case where the Hon'ble Member has got before the House a Bill which comes up tomorrow and unless the Government are fully satisfied that the Hon'ble Member has done everything in his power to see that the Bill is accepted? Government will not be justified in conceding to the request contained in the resolution. If it is a question of preference it is the look out of the Hon'ble Member himself. I do not see why an honest attempt should not be made to see that the Bill is advanced. The other Bills do not stand in his way and this will not take much time.

Dr. A. R. Menon (*Pallippuram*).—One word about the issue of proclamations. What is the proper time to issue a proclamation? When the Government is satisfied that the ordinary cumbersome machinery of the Legislative Council may stand in the way of the realisation within a reasonable time of the particular object in view, then you issue a Proclamation. You have never issued a proclamation in this line.

Mr. Thomas Mnajuran (*Government Advocate and Law Officer*).—If ever there was an occasion for issuing a Proclamation it is when the Government is convinced that there is absolute urgency for it.

Dr. A. R. Menon (*Pallippuram*).—The Government Advocate will not issue a proclamation on a ground like this. I state that the very ground on which a proclamation may be issued is with regard to a measure like this. Both are agreed that there is no time. I cannot understand this sort of argument.

Mr. E. Ikkanda Warriar (*Urakam*).—Government need issue a proclamation only in case the Bill is not reached tomorrow. Why not the Government accept this or take the sense of the House?

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—There are several considerations before the Government for the issue of a proclamation. The first and foremost is the urgency of the matter. Secondly it must be an apt case. It must be a case in which the imperative issue of a proclamation is called for. Hon'ble Members should not forget that fact. The sympathy of the Government is one thing and the conviction is a different thing. I candidly tell my friend to make an honest attempt to see that this Bill is put through the Council. He can make a motion to the Council. When

that motion is before the House without making an appeal I will stand up and say that it is proper that this Bill is accepted, and that the House has no objection. This is all what I can say.

Mr. E. Ikkanda Warriar (Urakam).—I hope the Government is not opposing this resolution.

Mr. Thomas Manjuran (Government Advocate and Law Officer).—The resolution in that form is opposed.

Mr. A. V. Moothedan (Chalakkudi).—Even if the Bill is introduced to-morrow how can you get it passed.

Mr. Thomas Manjuran (Government Advocate and Law Officer).—The Standing Order will have to be suspended. Then the Bill can be passed this time. When the whole House is agreed upon a certain thing why should the President stand in the way? I do not think that the President will do it.

Mr. A. V. Moothedan (Chalakkudi).—This is a private Bill. This Bill has not been published in the Gazette. How can it be passed before publication.

Resolution put and carried.

16. T. A. to Officers Attending Athachamayam etc.

Mr. A. V. Moothedan (Chalakkudi).—I move "*that this Council recommends to the Government that the practice of giving Travelling allowance to officers attending Attachamayam and similar State functions should be discontinued forthwith*". I make this suggestion to the Government as a measure of retrenchment. There are spheres where retrenchment is possible. One sphere is this. Last session from an answer to a question it was found that over 3000 rupees have been paid by way of T. A. to officers for attending Attachamayam and other functions like this. If the resolution is accepted, so much money can be saved and that may be utilised for some purpose, say for the purchase of chairs and other furniture for village offices. It is not the officers alone who are loyal. Loyalty should be spontaneous. Nobody should attend these functions with the object of getting T. A. Every body should go there spontaneously, out of loyalty, towards His Highness the Maharaja and not for T. A. We also go there even though we are not compelled to go.